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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,830	12/27/2004	Adrienne Jacqueline Jones	818,096	1384

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EXAMINER
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PALO, FRANCIS T

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/500,830	JONES, ADRIANNE JACQUELINE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Francis T. Palo	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

1. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

**Group-1**, claim(s) 1-20, drawn to **a tree shelter**.

**Group-2**, claim(s) 21-32, drawn to **a method of making a tree shelter**.

**Group-3**, claims 1 and 20, drawn to **a method of using a tree shelter**.

The inventions listed as Groups 1-3 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

While the combination of categories (Groups 1-3) are a permitted combination, only one invention in each category is permitted and at least one of the products are not capable of being made with the claimed process.

Specifically, the method of making category contains two inventions, needle-punching (claim-22) and weaving (claim-25), only one is permissible, and at least three species are evident as recited in claims 27-29; further, needle-punching is not recited in the products claimed, and cross-linked layers as recited in the product claims is not recited in the processes claimed.

Also, the product category is directed to a woven (claim-2) and non-woven layered mat (claim-3) construction, and at least four species of resin materials (claims12-15).

Finally, the figures depict a self-supporting tree shelter in figure-1 and two embodiments of a staked tree shelter in figures 2 and 3.

2. This application contains claims directed to more than one species of the generic invention.

These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

**The species are as follows:**

**Group-1:**

**Species-1A: Figure-1**

claim(s) 1-15, 19-20, 21-30;

**drawn to a degradable mat covered with a resin.**

**Species-1B: Figures 2-4**

claim(s) 1-32;

**drawn to a degradable mat covered with a resin,  
having a stake passed through slits in the mat.**

**Group-2:**

**Species-2A:** no figures, drawn to a needle-punched layered mat construction process (claim-22) and one of the resin applying processes as recited in claims 27-29.

**Species-2B:** no figures, drawn to a woven mat construction process (claim-25) and one of the resin applying processes as recited in claims 27-29.

The claims are deemed to correspond to the species listed above in the following manner:

**Group-1:**

**Species-1A1:**

Directed to a **woven mat**;

Claims 1, 2, 10, 11, 19, 20 and one of the resins recited in claims 12-15.

**Species-1A2:**

Directed to a **non-woven layered mat**;

Claims 1, 3, 10, 11, 19, 20 and one of the resins recited in claims 12-15.

**Species-1A2A:**

Directed to a non-woven layered mat, **impregnated with a second resin**;

Claims 1, 3, 4, 5, 7.

**Species-1A2B:**

Directed to a non-woven layered mat, encapsulated with a second resin;

Claims 1, 3, 4, 6, 7.

**Species-1A2C:**

Directed to a non-woven layered mat, impregnated with a second resin,  
resins biodegradable;

Claims 1, 3, 4, 5, 8.

**Species-1A2D:**

Directed to a non-woven layered mat, impregnated with a second resin,  
specific first and specific second resins;

Claims 1, 3, 4, 5, 16.

**Species-1A2E:**

Directed to a non-woven layered mat, layers are cross-linked;

Claims 1, 3, 9.

**And;**

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**Species-1B1:**

Directed to a **woven mat**;

Claims 1, **2**, 10, 11, 17-20 and one of the resins recited in claims 12-15.

**Species-1B2:**

Directed to a **non-woven layered mat**;

Claims 1, **3**, 10, **11**, 17-20 and one of the resins recited in claims 12-15.

**Species-1B2A:**

Directed to a non-woven layered mat, **impregnated with a second resin**;

Claims 1, 3, 4, **5**, 7, 17, 18.

**Species-1B2B:**

Directed to a non-woven layered mat, **encapsulated with a second resin**;

Claims 1, 3, 4, **6**, 7, 17, 18.

**Species-1B2C:**

Directed to a non-woven layered mat, impregnated with a second resin,

**resins biodegradable**;

Claims 1, 3, 4, 5, **8**, 17, 18.



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**Species-1B2D:**

Directed to a non-woven layered mat, impregnated with a second resin,  
**specific first and specific second resins;**

Claims 1, 3, 4, 5, **16**-18.

**Species-1B2E:**

Directed to a non-woven layered mat, **layers are cross-linked;**

Claims 1, 3, **9**, 17, 18.

**Group-2:**

**Species-2A:** claims 21-24, 26, (one of claims 27-29) and 30-32.

**Species-2B:** claims 21, 23-26, (one of claims 27-29) and 30-32.

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3. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added.

Specifically;

**If Group-1**, then Species-1A or Species-1B,

and if **Species-1A** then Species-1A1 or Species-1A2,

if **Species-1A2** then one of **Species-1A2A through Species-1A2E**;

**OR,**

if **Species-1B** then Species-1B1 or Species-1B2,

if **Species-1B2** then one of **Species-1B2A through Species-1B2E**.

**If Group-2**, then Species-2A or Species-2B,

An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

The following claim(s) are generic: **Claim-1 appears to be generic.**

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

See the parallel discussion above regarding the inventions as not relating to a single general inventive concept.

A telephone call was not made to applicant's representative on 9/25/06 to request an oral election to the above restriction requirement due to the complexity of the election.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu.,Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Francis T. Palo*  
Francis T. Palo  
Primary Examiner  
Art Unit 3644